

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: STEPHEN K. EUGSTER,

Respondent.

Case No. 2:18-mc-00066-RSM

ORDER AFFIRMING
DECLINATION OF RECUSAL

This matter comes before the Court on Chief Judge Ricardo S. Martinez's referral under Local Civil Rule 3(f). Respondent Stephen K. Eugster moved to disqualify Judge Martinez from this action. Dkt. # 5. Judge Martinez declined to recuse himself and referred the motion to the undersigned. Dkt. # 7.

The applicable recusal statute provides as follows:

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the

1 proceeding or expressed an opinion concerning the merits of the particular
2 case in controversy

3 28 U.S.C. § 455. Further, 28 U.S.C. § 144 provides that when “the judge before whom
4 the matter is pending has a personal bias or prejudice either against him or in favor of any
5 adverse party,” a party may file an affidavit stating, “the facts and reasons for the belief
6 that bias or prejudice exists,” and the case will be assigned to another judge. “Under both
7 statutes, recusal is appropriate where a reasonable person with knowledge of all the facts
8 would conclude that the judge’s impartiality might reasonably be questioned.” *Yagman*
9 *v. Republic Ins.*, 987 F.2d 622, 626 (9th Cir. 1993) (internal quotations and citations
10 omitted). “[A] judge’s prior adverse ruling is not sufficient cause for recusal.” *United*
11 *States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986).

12 Mr. Eugster’s motion to disqualify is based on an order that Judge Martinez
13 entered in *Caruso v. Washington State Bar Ass’n*, No. 2:17-cv-00003-RSM, 2019 WL
14 5549608, at *1 (W.D. Wash. Oct. 28, 2019). In that case, Judge Martinez entered a pre-
15 filing order enjoining Mr. Eugster from filing certain challenges in federal and state court
16 without the Court’s consent. *Id.* (Dkt. # 86). After Judge Martinez entered the pre-filing
17 order, Mr. Eugster sought leave to file a proposed Rule 60 motion. *Id.* (Dkt. # 87). Judge
18 Martinez, in a single order, granted leave and then denied the proposed motion (“Order”).
19 *Id.* (Dkt. # 88) (holding that the Rule 60 motion was “not strictly subject to the bar
20 order”). In that Order, he held that the motion was “procedurally deficient and untimely”
21 and a veiled attempt to “relitigate th[e] case.” *Id.*

22 In this matter, Mr. Eugster argues that the Order was (1) “extrajudicial proof” of
23 bias and (2) the “rare circumstance” when a judicial statement may disqualify a judge.
24 Dkt. # 5 at 5-7. Neither of these arguments are supported by facts.

25 First, despite Mr. Eugster’s characterization, the Order was not “extrajudicial.” It
26 was plainly an adverse ruling made while Judge Martinez presided over a case. *United*
27 *States v. Holland*, 519 F.3d 909, 913 (9th Cir. 2008) (explaining that the “extrajudicial

1 source” factor requires “something other than rulings, opinions formed or statements
2 made by the judge during the course of” a case). Thus, Mr. Eugster has failed to show an
3 extrajudicial source justifying recusal.

4 Second, in a single sentence, Mr. Eugster concludes that, even if the Order were
5 not extrajudicial, the events here amount to “that ‘rare circumstance’ where judicial
6 statements can be used to establish a judge is disqualified.” Dkt. # 5 at 7. He offers no
7 argument in support. He merely refers to a petition in which he compiled Judge
8 Martinez’s various adverse rulings against him. *Id.*; Dkt. # 5-1 at 16-23. This is
9 insufficient to show the “rarest of circumstances” that occasionally arise when events in a
10 courtroom so “embroil [a judge] in controversy” that the judge was unable to balance
11 “vindicating the interests of the court and the interests of the accused.” *Holland*, 519
12 F.3d at 914 n.4 (alteration in original) (quoting *Taylor v. Hayes*, 418 U.S. 488, 501
13 (1974)). The Court finds that Judge Martinez was not embroiled in such controversy
14 here.

15 Therefore, the Court **AFFIRMS** Judge Martinez’s order declining to recuse
16 himself (Dkt. # 7) and **DENIES** Mr. Eugster’s motion (Dkt. # 5).

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18 DATED this 7th day of July, 2020.

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21 The Honorable Richard A. Jones
22 United States District Judge
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